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10/595,437	05/02/2008	Jean-Pierre Giraud	62357.022906	9607

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EXAMINER

RANDALL, JR., KELVIN L

ART UNIT	PAPER NUMBER
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3651

NOTIFICATION DATE	DELIVERY MODE
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04/28/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/595,437	Applicant(s) GIRAUD, JEAN-PIERRE	
	Examiner Kelvin L. Randall, JR.	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/19/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the trigger mechanism must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by David Thompson (GB 2,257,421 – hereinafter Thompson).

Re Claim 1:

Thompson teaches a tablet dispenser for dispensing individual solid objects comprising a lower housing, an upper housing (2) with an elastomeric cover that covers at least a portion of a trigger mechanism, a elastomeric cover of at least a portion of the lower housing and a dispenser mechanism that is dimensioned to fit within the housings, the dispenser mechanism has a container region (4) and a dispenser zone (see Fig. 1), the dispenser mechanism has a spring element and a lever mechanism (38) pivotally mounted in the dispensing zone, an interior of the lower housing is provided with a pusher bar (26) which extends from a fore wall of the lower housing back towards an upward extending leg of the lever mechanism (38), the pusher bar (26), upward extending leg and a hook element are configured so that the pusher bar (26) is not in contact with the upward extending leg and the extending leg is set back from an opening situated on a fore wall of the lower housing and a hook element (40) of the lever mechanism (38) extends into the dispenser zone blocking tablets from being dispensed

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through the opening when the dispenser mechanism is at rest but, at the same time, when sufficient force is applied to the elastomeric cover, the dispenser mechanism moves forward (see page 4 line 5 to page 6 line 15) towards the fore wall of the lower housing and the upward extending leg of the lever mechanism contacts the pusher bar, as the upward extending leg pivots in the direction opposite the direction in which the dispenser mechanism is moving, the hook element of the lever mechanism pivots in the opposite direction of the upward extending leg and thus removing the impediment prohibiting the tablet from passing through the opening of the dispensing mechanism (see page 4 line 5 to page 6 line 15).

Re Claim 5:

Thompson teaches a tablet dispenser for dispensing individual solid objects comprising a lower housing, an upper housing (2) with a trigger mechanism, a dispenser mechanism that is dimensioned to fit within the housings, the dispenser mechanism has a container region (4) and a dispenser zone (see Fig. 1), the dispenser mechanism has a spring element and a lever mechanism (38) pivotally mounted in the dispensing zone, an interior of the lower housing is provided with a pusher bar (26) which extends from a fore wall of the lower housing back towards an upward extending leg of the lever mechanism (38), the pusher bar (26), upward extending leg and a hook element are configured so that the pusher bar (26) is not in contact with the upward extending leg and the

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extending leg is set back from an opening situated on a fore wall of the lower housing and a hook element (40) of the lever mechanism (38) extends into the dispenser zone blocking tablets from being dispensed through the opening when the dispenser mechanism is at rest but, at the same time, when sufficient force is applied to the elastomeric cover, the dispenser mechanism moves forward (see page 4 line 5 to page 6 line 15) towards the fore wall of the lower housing and the upward extending leg of the lever mechanism contacts the pusher bar, as the upward extending leg pivots in the direction opposite the direction in which the dispenser mechanism is moving, the hook element of the lever mechanism pivots in the opposite direction of the upward extending leg and thus removing the impediment prohibiting the tablet from passing through the opening of the dispensing mechanism (see page 4 line 5 to page 6 line 15).

Re Claim 6:

Thompson teaches blocking tablets from being dispensed through an opening when the dispenser mechanism is at rest by employing a dispenser mechanism, the dispenser mechanism has a container region (4) and a dispenser zone (see Fig. 1), the dispenser mechanism has a lever mechanism (38) pivotally mounted in the dispensing zone, an interior of the lower housing is provided with a pusher bar (26) which extends from a fore wall of the lower housing back towards an upward extending leg of the lever mechanism (38), the pusher bar (26), upward extending leg and a hook element are configured so that the pusher bar (26) is

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not in contact with the upward extending leg and the extending leg is set back from an opening situated on a fore wall of the lower housing and a hook element (40) of the lever mechanism (38) extends into the dispenser zone applying sufficient force to a trigger mechanism that contacts the dispenser mechanism so that the dispenser mechanism moves forward (see page 4 line 5 to page 6 line 15) towards the fore wall of the lower housing and the upward extending leg of the lever mechanism contacts the pusher bar, as the upward extending leg pivots in the direction opposite the direction in which the dispenser mechanism is moving, the hook element of the lever mechanism pivots in the opposite direction of the upward extending leg that results in allowing the tablet to pass through the opening of the dispenser mechanism (see page 4 line 5 to page 6 line 15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of William Kahler (4,911,344 – hereinafter Kahler).

Re Claims 2, 9, and 10:

Thompson teaches the device of claim , but fails to teach wherein a lip seal cover the opening in the lower housing and the lip seal is configured so that the upward extending leg opens a slit in the lip seal to allow a tablet to pass therethrough, the lip seal forms a substantially moisture tight container.

Kahler teaches wherein a lip seal (74) covers an opening, the lip seal (74) forms a substantially moisture tight container (see col. 3 lines 37-46). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Thompson with that of Kahler so as to have protection from outer element.

Examiner further notes that the combination is capable of yielding a seal in the lower housing and the lip seal being configured so that an upward extending leg opens a slit in the lip seal to allow a tablet to pass therethrough.

Further Re Claim 3:

Thompson teaches wherein the elastomeric cover is provided with a button that extends into an opening of the upper housing, the button and the opening form an interference fit with prongs (10) so that, when the force is removed from the

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elastomeric cover, the cover returns to its original shape, and pulls the dispenser mechanism back to its original position within the housing (10 and 24, 24 is integral to the cover).

6. Claims 4 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of Kahler, and further in view of Robert Aggson (2,653,706 – hereinafter Aggson).

Re Claims 4 and 11-13:

Thompson in view of Kahler teaches the device of claim 2, but fails to teach wherein the seal is overmolded to form a substantially moisture tight seal, prohibiting the ingress of moisture into the housing.

Aggson teaches wherein the seal is overmolded to form a substantially moisture tight seal, prohibiting the ingress of moisture into the housing (see Fig. 6 – seal related to 6 and 7). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Thompson in view of Kahler with that of Aggson, so as to protect a dispenser's internal chamber from outside contamination.

Allowable Subject Matter

7. Claims 7 and 8 are allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin L. Randall, JR. whose telephone number is (571)270-5373. The examiner can normally be reached on Monday-Friday 8:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651

/K. L. R./
Examiner, Art Unit 3651